IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 21429 of 2007(A)

PETITIONER:

K.M.GEETHA, W/O. T.KANNAN, AGED 34 YRS,
UPPER PRIMARY SCHOOL ASSISTANT,
PATASALA SANSKRIT HIGH SCHOOL, THEKKE GRAMAM,
CHITTUR, PALAKKAD DISTRICT.

BY ADV. SRI.P.RAMACHANDRAN
SRI.K.T.SHYAMKUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY, GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
PALAKKAD.

3. THE HEADMASTER,
PATASALA SANSKRIT HIGH SCHOOL,
THEKKE GRAMAM, CHITTUR, PALAKKAD DISTRICT.

BY GOVT.PLEADER SRI.A.J.VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No. 21429 of 2007

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Dated this the 12th day of July, 2007.

J U D G M E N T

Petitioner is an Upper Primary school Assistant. She had availed of leave without allowances for the purpose of undergoing B.Ed course from May 5, 2003 till January 31, 2004. Government had issused Ext.P1 order on February 28, 2005 sanctioning leave to the petitioner as requested, of course with a condition that the leave period will not count for any service benefits including pension. Learned counsel submits that the said condition is illegal and unsustainable.

2. It is pointed out by the learned counsel that the issue is covered in favour of the petitioner in view of a decision of this Court in WP(C).No.26782/2005 and also in ***Deepika v. State of Kerala (2007 (1) KLT 71.*** Petitioner further contends that in view of the above judgments of this Court, Ext.P2 circular issued by the Finance Department cannot be sustained. Anyhow, this is a matter to be considered by the Department.

If the petitioner prefers a representation within two weeks from today highlighting all the relevant aspects of the issues, respondent No.2 shall consider the matter and take a decision in the light of the judgments referred to above, ignoring Ext.P2 circular. Needless to mention that petitioner shall be afforded sufficient opportunity to be heard. This shall be done as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment.

A.K. Basheer
Judge.

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